

**§ 909. Special and incentive pay: payment at un-reduced rates during suspension of personnel laws**

(a) **AUTHORITY TO CONTINUE PAYMENT AT UN-REDUCED RATES.**—To ensure fairness and recognize the contributions of members of the armed forces to military essential missions, the Secretary of the military department concerned may authorize members who are involuntarily retained on active duty under section 123 or 12305 of title 10 or any other provision of law and who, immediately before retention on active duty, were entitled or eligible for special pay or incentive pay under chapter 5 of this title, to receive that special pay or incentive pay for qualifying service performed during the retention period, without a reduction in the payment rate below the rate the members received immediately before retention on active duty, notwithstanding any requirement otherwise applicable to that special pay or incentive pay that would reduce the payment rate by reason of the years of service of the members.

(b) **SUSPENSION DURING TIME OF WAR.**—Subsection (a) does not apply with respect to a special pay or incentive pay under chapter 5 of this title, whenever the authority to provide that special pay or incentive pay is suspended by the President or the Secretary of Defense during a time of war.

(c) **QUALIFYING SERVICE DEFINED.**—In this section, the term “qualifying service” means service for which a particular special pay or incentive pay is payable under the authority of a provision of chapter 5 of this title.

(Added Pub. L. 107–107, div. A, title VI, § 623(a)(1), Dec. 28, 2001, 115 Stat. 1142.)

**EFFECTIVE DATE**

Pub. L. 107–107, div. A, title VI, § 623(b), Dec. 28, 2001, 115 Stat. 1143, provided that: “Section 909 of title 37, United States Code, as added by subsection (a)(1), shall apply with respect to pay periods beginning after September 11, 2001.”

**CHAPTER 19—ADMINISTRATION**

Sec.	
1001.	Regulations relating to pay and allowances.
1002.	Additional training or duty without pay: Reserves and members of National Guard.
1003.	Assimilation of pay and allowances.
1004.	Computation of pay and allowances for month or part of month.
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1008.	Presidential recommendations concerning adjustments and changes in pay and allowances.
1009.	Adjustments of monthly basic pay.
1010.	Commissioned officers: promotions; effective date for pay and allowances. <sup>1</sup>
1011.	Mess operations: reimbursement of expenses. <sup>1</sup>
1012.	Disbursement and accounting: pay of enlisted members of the National Guard.
1013.	Payment of compensation for victims of terrorism.
1014.	Payment date for pay and allowances.

<sup>1</sup> So in original. Does not conform to section catchline.

1015. Annual report on effects of recruitment and retention initiatives.

**AMENDMENTS**

1999—Pub. L. 106–65, div. A, title VI, § 673(a)(2), Oct. 5, 1999, 113 Stat. 674, added item 1015.

1997—Pub. L. 105–85, div. A, title VI, § 604(a)(2), Nov. 18, 1997, 111 Stat. 1784, substituted “monthly basic pay” for “compensation” in item 1009.

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1987—Pub. L. 100–26, § 8(b)(2), Apr. 21, 1987, 101 Stat. 285, redesignated item 1013 “Payment date for pay and allowances” as 1014.

1986—Pub. L. 99–500, § 101(c) [title IX, § 9103(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–118, and Pub. L. 99–591, § 101(c) [title IX, § 9103(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–118, added item 1013, relating to payment date for pay and allowances.

Pub. L. 99–399, title VIII, § 806(e)(2), Aug. 27, 1986, 100 Stat. 889, added item 1013, relating to payment of compensation for victims of terrorism.

1985—Pub. L. 99–145, title XIII, § 1303(b)(13)(C), Nov. 8, 1985, 99 Stat. 741, inserted “: pay of enlisted members of the National Guard” in item 1012.

1982—Pub. L. 97–258, § 2(i)(2)(A), Sept. 13, 1982, 96 Stat. 1061, added item 1012.

1980—Pub. L. 96–513, title V, §§ 506(9), 516(21), Dec. 12, 1980, 94 Stat. 2919, 2939, added items 1010 and 1011 and substituted “Force:” for “Force;” in item 1005.

1974—Pub. L. 93–419, § 4, Sept. 19, 1974, 88 Stat. 1152, added item 1009.

1965—Pub. L. 89–132, § 2(b), Aug. 21, 1965, 79 Stat. 547, added item 1008.

**§ 1001. Regulations relating to pay and allowances**

(a) A Secretary of a military department may not prescribe a regulation under this title or any other law, relating to the pay and allowances of members of an armed force under that department, unless it has been approved under procedures prescribed by the Secretary of Defense.

(b) Regulations of the Secretary concerned relating to pay and allowances matters, similar to those covered by subsection (a), for members of the Coast Guard, the National Oceanic and Atmospheric Administration, and the Public Health Service, shall, as far as practicable, conform to regulations approved under that subsection.

(c) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, may obtain from the Comptroller General an advisory opinion with respect to a proposed regulation especially affecting a department under that Secretary’s jurisdiction.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 89–718, §§ 49(a)(1), 69, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 90–623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title V, § 516(22), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1001(a) .....	37:324 (1st sentence).	Oct. 12, 1949, ch. 681, § 534; added Sept. 2, 1957.
1001(b) .....	37:324 (2d sentence).	Pub. L. 85–272, § 4, 71 Stat. 597.
1001(c) .....	37:324 (less 1st and 2d sentences).	